

UK Covid-19 Public Inquiry | Module 5
Procurement and distribution of key healthcare equipment and supplies

Final List of Issues

Introduction

This List of Issues (“Lol”) provides an indicative guide to the topics proposed for exploration within the Module 5 investigation. It is not intended to be an exhaustive or prescriptive document. Some issues will require greater scrutiny than others. Indicative areas may be explored through different mechanisms - some may be examined with witnesses, others by means of the relevant documentary material. Core documents to be relied upon as part of the evidential and factual matrix will be published in due course. The framing of these issues does not indicate that any finding of fact has been made on a particular issue. This module is an investigation of the approaches of the UK government and devolved administrations to the procurement and distribution of key healthcare equipment during the pandemic. An integral part of the Inquiry’s examination of the evidence is the extent to which inequality was adequately considered as part of the response. The Lol will continue to be kept under review throughout the investigation. Inevitably, issues may come into greater or lesser focus as the Module 5 investigation progresses - some may fall away and others may emerge. It follows that not all indicative areas will be addressed to the same degree or explored by the same means. Core documents forming part of the evidential matrix will, of course, be published.

Outline of Scope

Module 5 will examine and make recommendations regarding the procurement and distribution to end-users across the four nations of the United Kingdom of key healthcare related equipment and supplies, including PPE, ventilators and oxygen. It will investigate the robustness and effectiveness of procurement processes, the suitability of the items obtained (including their specification, quality and volume) and the effectiveness of their distribution to the end-user. It will examine any challenges experienced and seek to extract lessons to be learned. It will also consider the UK-wide procurement of lateral flow tests and PCR tests.

Areas to be covered in this module will include:

1. The existence and effectiveness of processes, procedures and/or contractual provisions in place for the procurement and distribution of key healthcare equipment and supplies to the end-user prior to and during the pandemic, the suitability and resilience of the supply chains and what, if any, changes were made to procurement processes during the pandemic and have been made subsequently. This will include examination of:
 - a. The overall value of the contracts awarded;
 - b. Preparedness, including pre-existing stockpiles, inventory management and suitability;
 - c. Spending controls;
 - d. Steps taken to eliminate fraud and the prevalence of fraud;

- e. Conflicts of interest;
 - f. Contractual performance by suppliers and manufacturers;
 - g. Compliance with public law procurement principles and regulations;
 - h. Openness and fairness, including the 'high priority lane';
 - i. Decisions as to what to buy at what cost and disposal strategies;
 - j. The existence of any maladministration.
2. Procurement of key healthcare equipment and supplies to the end-user in the period leading up to and during the pandemic. This will include the existence and effectiveness of procedures, processes and communication between the relevant bodies of the four nations in relation to procurement and the use made of mutual aid arrangements during the pandemic.
 3. The operation and effectiveness of any regulatory regimes and/or oversight (either by the procuring authority or end user) in relation to key medical equipment or supplies during the pandemic including:
 - a. Guidance issued by the relevant advisers, regulators and/or government;
 - b. The need for, and the efficacy of standards required by the MHRA and the BSI;
 - c. The impact of any changes to the volume, technical specifications and/or quality of the products that were procured;
 - d. The validation process including benchmarks and revalidation;
 - e. Safety concerns (the existence of such concerns and how they were addressed by those responsible for procurement).

Issues

1. Pandemic stockpiles

1. Were the stockpiles of key healthcare equipment and supplies adequate to respond to the Covid-19 pandemic? If not, in what sense were they inadequate? How long did they last? How long should future PPE stockpiles aim to last?
2. Were the systems for the storage, monitoring, review, management and administration of PPE stockpiles adequate and effective? If not, in what sense were they inadequate and/or ineffective and what lessons can be learned for future pandemics?
3. Was account taken of the range of physical characteristics of the health and social care workforce when stockpiling PPE? If not, why not?

2. Structures, systems and processes for procurement

4. Which institutions were responsible for the procurement and distribution of key healthcare and equipment and supplies during the pandemic? What were the systems and tools for procuring key health care equipment and supplies and how effective were they?

5. Were the institutions, structures, systems and tools in the UK and devolved administrations adequate, adaptable and effective for the procurement and distribution of key healthcare equipment and supplies during the pandemic?
6. What were the institutions, structures, systems and tools that needed to be created by the governments of the UK and devolved administrations during the pandemic? Why did they need to be created? Were they effective at meeting the demands of the pandemic? In particular, did the system achieve an adequate balance between the speed of the response, value for money and quality in the award of contracts?
7. What were the systems in the UK and devolved administrations for the:
 - a. collection, transmission and analysis of inventory data of key healthcare equipment and supplies?
 - b. analysis of market data on the types, prices and quantities of key healthcare equipment and supplies available to those in charge of procurement?
 - c. modelling and forecasting of the distribution, demand and supply of key healthcare equipment?

How did these adapt during the pandemic and were they effective?

8. What are the strengths and weaknesses of a system of contracting out functions such as procurement of key healthcare equipment and supplies for the NHS and storage and distribution of those items?
9. What lessons can and should the UK and devolved administrations learn from each other's and international approaches to stockpiling, procurement and distribution?
10. What is the role of technology, such as automation and artificial intelligence, in public procurement? How should the decisions of ministers and officials be assisted by automation and artificial intelligence?

3. The VIP Lane

11. Why was the High Priority (also known as the 'VIP') Lane established? What were its aims and objectives? Did it achieve them? If not, why not?
12. What were the key features of the High Priority Lane, including its advantages and disadvantages? How did its operation differ, if at all, from the approach adopted to other offers to supply key healthcare equipment and supplies?
13. In what circumstances might a prioritisation system assist in the procurement of key healthcare equipment and supplies in an emergency? What, if any, were the countervailing disadvantages of such a system? Was any comparable system established by Devolved Nations? How might any risks associated with a High Priority Lane be mitigated in future?

4. Logistics and distribution

14. Which entities in the UK and devolved administrations were responsible for the distribution of key healthcare equipment and supplies during the pandemic?
15. What were the systems in the UK and devolved administrations for the distribution of key healthcare equipment and supplies during the pandemic? What systems were in place to ensure that there was fair and effective distribution of key healthcare equipment and supplies?
16. What were the principal issues encountered in distributing PPE? Did the governments of the UK and devolved administrations respond to the issues effectively?
17. What role did the Ministry of Defence have in organising procurement, logistics and distribution during the pandemic? What was the role of the private sector? What are the alternatives to deploying the resources of the Ministry of Defence during a pandemic? What can be learned from the methods used by the Ministry of Defence to improve distribution during a pandemic?
18. How did systems for distribution and procurement meet the needs of the care sector and of contractors who delivered NHS services?
19. Was the system of mutual aid for the distribution of PPE between the UK and devolved administrations effective?

5. Skills, expertise and experience

20. What are the skills, expertise and experience necessary for effective procurement in a pandemic? Did the UK and devolved administrations possess and deploy them in sufficient numbers, breadth and depth?
21. What are the areas in which the UK government and devolved administrations relied on the private sector and consultants to assist them in procurement during the pandemic? Why was such reliance necessary?
22. How should the government approach training and retaining experts in emergency procurement? What should the role of private sector consultants and contractors be in providing advice and engaging in procurement and distribution during an emergency such as a pandemic?

6. Emergency trade and industrial strategy

23. What were the UK government and devolved administrations' approaches to the domestic manufacture and international procurement of key healthcare equipment and supplies? How did 'UK Make', 'China Buy' and other routes for the procurement of key healthcare equipment and supplies compare in terms of speed, quality and price during the pandemic?

24. What were the advantages and disadvantages of the 'Calls to Arms' in the Ventilator Challenge, Operation Moonshot and the domestic manufacture of PPE? How should the government approach industry in responding to a pandemic emergency?
25. Did the UK and devolved administrations have an effective strategy for the international and domestic supply of key healthcare equipment and supplies during a pandemic? If not, why not? How did the UK and devolved administrations approach reliance on global free trade, international supply chains and domestic industrial capacity to respond effectively to the pandemic? Was this an effective approach?
26. To what extent did the strategy for the procurement of key healthcare equipment and supplies complement and support other aspects of the pandemic response?
27. What are the key elements of foreign and international trade policy which the UK should adopt to build long-term resilience in its supply chains?
28. What role, if any, should a domestic industrial strategy play in preparing to respond to emergencies such as pandemics?
29. What are the pros and cons of relying on the global market and global supply chains for key healthcare equipment and supplies during a pandemic? How should any such risks be mitigated? Should the UK diversify its sources of supply to include greater domestic manufacturing?
30. Is it possible and/or desirable to control pricing and thus the profits of suppliers of key healthcare equipment and supplies during a pandemic? What lessons can be drawn from international comparisons in this regard?
31. Are there any strategic industries necessary for the manufacture of key healthcare and equipment in the event of a pandemic? If so, what are they? How may they be supported prior to and during an emergency?

7. Regulation and inspection

32. What was the system in the UK and devolved administrations by which technical specifications for key healthcare equipment and supplies were set, disseminated and kept under review by technical and clinical experts? Was the overall system adequate and effective?
33. Were the systems for the inspection of the key healthcare equipment and supplies adequate?
34. What action was taken to ensure that PPE provided during the pandemic was safe for use?

8. Governance, transparency and accountability

35. What are the best methods of achieving a balance in procurement of key healthcare equipment and supplies between such factors as speed, cost, quality and fairness in the award of contracts? Was such a balance struck through the use of framework agreements, open competition, dynamic purchasing systems and direct awards and what lessons can be drawn from the experience?
36. What is the best way to approach spending controls on procurement during a pandemic?
37. What is the appropriate role of transparency in procurement during a pandemic? How should this be balanced with responding to the demands of the emergency?
38. Were there adequate systems to identify and mitigate against potential fraud, bribery and corruption in procurement of key healthcare equipment and supplies? To what extent were the UK government and devolved administrations using expertise in data analytics, due diligence and fraud detection to mitigate risk?
39. How should record-keeping and publication of key decisions in the context of emergency procurement be improved? Was the balance between the expeditious awarding of contracts and transparency, for example, by the publication of contract award notices? How much information should be published and when?
40. Did the government collect and analyse in real-time the data about the contracts were entered into during the pandemic? If not, why not? What conclusions may be drawn about the system from an analysis of contract data? Do they reveal anything which contradicts official accounts of procurement?

9. Excess purchasing, waste and disposal

41. To what extent did and should procurement during an emergency such as a pandemic take into account wider environmental, social and governance policy? Was there an effective disposal strategy? Was there sufficient consideration of reusable PPE and its pros and cons? Was account taken of the risk of modern slavery in supply chains?
42. How does the waste caused by emergency purchasing during the pandemic compare to waste in the governments of the UK and devolved administrations more generally?
43. What are the plans of the UK governments and devolved administrations for the disposal of key medical equipment and supplies purchased in excess?

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